

**Case No. 1:18-cv-237-SPB**

Plaintiff represents that he has been informed by the Marshal Service that service packets were mailed to all Defendants named in this action but Fiscus and Walker have “blatantly disregarded” the Court’s previous request that they waive formal service of the complaint. ECF No. 75, ¶9. Plaintiff therefore requests that the costs of personal service be assessed against these two individuals. *Id.*

Rule 4(m) sets forth the following time frame a plaintiff has to serve a defendant with the summons and copy of the complaint:

If a defendant is not served within 90 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

Defendants Fiscus and Kramer were added as Defendants in Plaintiff's First Supplement to the Second Amended Complaint, ECF No. 29, filed on July 25, 2019. Defendant Walker was added as a Defendant in Plaintiff's Second Supplement to the SAC, originally filed on January 22, 2020. See ECF No. 52 (refiled with previously missing page at ECF No. 78). The docket reflects that Plaintiff provided USM-285 forms for Defendants Kramer and Fiscus, see ECF No. 29-5 at pp. 19-20; however, it does not appear to the Court that a USM-285 form was submitted for Defendant Walker. See ECF No. 30 at pp. 5-15; ECF Nos. 53, 54, 55. Moreover, counsel for the DOC Defendants represents that Fiscus, Walker, and Kramer were never served. See ECF No. 70 at 1, n.1.

The mailing of service packets has been a somewhat complicated process in this case, due to the number of individual Defendants named in this lawsuit, the number of amended and supplemental complaints that have been filed, and the sheer volume of Plaintiff's tri-part pleading. Due to these circumstances, and given the extraordinary logistical complications that have arisen as a result of the Covid-19 pandemic, the Court finds good cause for extending the time for service in this case for a period of 90 days from the date of this Order. Accordingly,

IT IS ORDERED, this 22nd day of March, 2021, that the Clerk shall prepare service packets for mailing by the U.S. Marshal Service to Defendants Fiscus and Kramer, in accordance

with the instructions provided on Plaintiff's USM-285 forms, with the request that these Defendants, like the other DOC Defendants, agree to waive formal service of process. With respect to Lt. Walker, the Court can find no evidence that it has received a proper USM-285 form for that Defendant. Plaintiff is therefore directed to supply the requisite form within 21 days from the date of this Order. Service of the complaint shall be completed within ninety (90) days from the date of this Order.

A handwritten signature in black ink, reading "Susan Paradise Baxter", with a horizontal line underneath.

Susan Paradise Baxter  
United States District Judge

cc: SHAVEZ HOLDEN  
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